IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

R.S.A. No. 3387 of 2004
Date of decision February 27, 2007

Shekhar Singh

.....Appellant

Versus

Ishar Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE VINEY MITTAL

Present:- Sh. Gurnam Singh, Advocate
for the appellant.

Ms. Maninder Kaur, Advocate
for the respondent.

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Viney Mittal, J (Oral)

The plaintiff is appellant before this Court. He has challenged the judgment and decree of the first appellate Court whereby on an appeal filed by the defendant, the judgment and decree of the trial Court were set aside and suit of the plaintiff for permanent injunction was consequently dismissed.

It is claimed by the plaintiff that there was a private passage belonging to the plaintiff having purchased the land in question from vendor Jeet Singh. It was thus maintained that the defendant had no right to interfere in the said passage and use the same in any manner.

The trial Court decreed the suit filed by the plaintiff.

The defendant took up the matter in an appeal. The appellate Court reappraised the entire evidence and came to the conclusion that plaintiff had failed to show that the passage in question was a private passage and belonged to the plaintiff. It was further noticed that since, plaintiff and the defendant both had their land adjoining the passage,

therefore, it was apparent that the passage in question was common passage for all the co-sharers. Consequently, the appeal filed by the defendant was allowed and the suit filed by the plaintiff was dismissed by the appellate Court.

Nothing has been shown that the findings of fact recorded by the first appellate Court suffer from any infirmity or are contrary to the record.

No question of law, much less any substantial question of law, arises in the present appeal.

Dismissed.

(VINEY MITTAL)
JUDGE

February 27, 2007
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